



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/834,385	04/13/2001	David Carrel	4906.P024	3447

8791 7590 09/07/2005

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

EXAMINER

OSMAN, RAMY M

ART UNIT	PAPER NUMBER
----------	--------------

2157

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/834,385

Applicant(s)

CARREL ET AL

Examiner

Ramy M. Osman

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 April 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Status of Claims

1. This communication is responsive to the amendment filed on June 15, 2005. Applicant amended claims 1,3,4,8,12,15,18,25 and 28. Claims 1-30 are pending.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because in figure 4, reference character "405" has been used to designate both "Session 1" and "CPE". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to under 37 CFR 1.83(a) because figure 4 fails to show bidirectional data flow between the network elements as described in the specification. Figure 4 only shows unidirectional data flow, whereas on page 6 paragraph 18 of the specification states that RAC(413) transmits a message back to session1 (405). Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP §

Art Unit: 2157

608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-4,8-14,18-21 and 25-27 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Art Unit: 2157

The limitation “insert a route” has not been adequately defined in the specification. It is mentioned in only one location which states: “the host 401 inserts a route to the content server 415 with the information from the RAC 413 and a route to the content server 417 with the information from the RAC 411”. However, “inserts a route” has not been defined and its meaning cannot be ascertained. It is unknown what are the properties of the route and how can it be inserted. The word ‘insert’ implies a physical insertion whereby a technician connects a physical cable to the content server in this case.

Even in applicants response to the previous 112 second paragraph rejection, the applicant merely states that “insert a route” takes its ordinary meaning in the relevant arts, yet fails to explain what that ‘ordinary meaning’ is. Therefore, for the purpose of examination, the examiner will interpret “insert a route” to mean establishing a connection.

Claim Rejections - 35 USC § 103

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 1-10,12,13 and 15-30 rejected under 35 U.S.C. 102(e) as being anticipated by Chiles et al (US Patent Publication No 2001/0036192).**

8. In reference to claims 1,15,18 and 28-30, Chiles teaches a machine readable medium, an apparatus, a method and a corresponding network environment comprising:

Art Unit: 2157

establishing a session at a data link layer between a host and an remote access concentrator (paragraphs 56,63 and 70-72).

determining a set of network layer information corresponding to the session (paragraphs 56,63 and 70-72); and

applying the set of network layer information to the host at the data link layer to insert a route to at least one content server, the at least one content server being identified by the set of network layer information (paragraphs 56,63 and 70-72).

9. In reference to claims 2,16 and 19, Chiles teaches claims 1,15 and 18 respectively, wherein the session is Point-to-Point Protocol over Ethernet (paragraphs 62 and 63).

10. In reference to claims 3,17 and 20, Chiles teaches claims 1,15 and 18 respectively, further comprising:

establishing a second session at the data link layer between the host and the remote access concentrator (paragraphs 47,48,50,51 and 65);

determining a second set of network layer information corresponding to the second session (paragraphs 47,48,50,51 and 65); and

applying the second set of network layer information to the host at the data link layer to insert a route to at least one further content server, the further content server being identified by the second set of network layer information (paragraphs 47,48,50,51 and 65, Chiles inherently teaches a second session to a second server since there are multiple links between the host (i.e. the gateway of Chiles) and servers (i.e. the host system of Chiles which contains multiple servers and devices)).

Art Unit: 2157

11. In reference to claims 4 and 21, Chiles teaches claims 1 and 18 respectively, further comprising:

establishing a second session at the data link layer between the host and the remote access concentrator (paragraphs 47,48,50,51 and 65);

determining a second set of network layer information corresponding to the second session (paragraphs 47,48,50,51 and 65); and

applying the second set of network layer information to the host at the data link layer to insert a route to at least one further content server, the further content server being identified by the second set of network layer information (paragraphs 47,48,50,51 and 65, Chiles inherently teaches a second session to a second server since there are multiple links between the host (i.e. the gateway of Chiles) and servers (i.e. the host system of Chiles which contains multiple servers and devices).

12. In reference to claim 5, Chiles teaches a machine readable medium that provides instructions, which when executed by a set of processors, cause said set of processors to perform operations comprising:

establishing a first session with a data link layer protocol between a host and a content switch (paragraphs 56,63 and 70-72);

determining a first set of network layer information corresponding to the session (paragraphs 56,63 and 70-72);

establishing a second session with the data link layer protocol between the host and a remote access concentrator without terminating the first session (paragraphs 47,48,50,51 and 65);
and

Art Unit: 2157

determining a second set of network layer information for the second session (paragraphs 47,48,50,51 and 65).

13. In reference to claim 6, Chiles teaches claim 5 wherein the second remote access concentrator is the first remote access concentrator (paragraphs 47,48,50,51 and 65).

14. In reference to claim 7, Chiles teaches claim 5, wherein the session is Point-to-Point Protocol over Ethernet (paragraph 63).

15. In reference to claim 8, Chiles teaches a machine readable medium that provides instructions, which when executed by a set of processors, cause said set of processors to perform operations comprising:

establishing a communications session between a host and a remote access concentrator under a first of a plurality of accounts (paragraphs 51-53)

retrieving a set of network layer information corresponding to the first account (paragraphs 51-53);

creating a message having the set of network layer information within a data link layer of the message (paragraphs 51-53);

transmitting the message from the remote access concentrator to the host (paragraphs 51-53,56,62 and 63);

extracting the set of network layer information from the message at the data link layer (paragraphs 51-53,56,62 and 63); and

applying the set of network layer information to the host to insert, into the host, a route (paragraphs 51-53,56,62 and 63).

Art Unit: 2157

16. In reference to claim 9, Chiles teaches claim 8, wherein the session is Point-to-Point Protocol over Ethernet. (paragraph 63).

17. In reference to claim 10, Siegel teaches claim 8 further comprising:

establishing a second communications session between the host and the remote access concentrator under a second of the plurality of accounts without terminating the first communication session (paragraphs 47,48,50-53 and 65);

establishing a second set of network layer information, the second set of network information corresponding to the second account (paragraphs 47,48,50-53 and 65);

creating a second message having the second set of network layer information within a data link layer of the message; transmitting the second message from the concentrator to the host; extracting the second set of network layer information from the second message; and applying the second set of information to the host (paragraphs 47,48,50-53 and 65).

18. In reference to claims 12,22 and 25-27, Siegel teaches a machine readable medium that provides instructions, which when executed by a set of processors, cause said set of processors to perform operations, and a corresponding method comprising:

establishing a Point to Point Protocol over Ethernet (PPPoE) session between a host to a remote access concentrator, the PPPoE session being associated to an account (paragraphs 51-53 and 70-72);

determining a set of network information corresponding to the account in the PPPoE session (paragraphs 51-53 and 70-72); and

applying the set of network information to the host (paragraphs 51-53 and 70-72).

Art Unit: 2157

19. In reference to claims 13,23 and 24, Siegel teaches claims 12 and 22 respectively further comprising:

establishing a second PPPoE session between the host and the remote access concentrator, the second session being associated with a second account (paragraphs 47,48,50-53 and 65).

determining a set of network information corresponding to the second account (paragraphs 47,48,50-53 and 65); and

applying the second set of network information to the host in the PPPoE session (paragraphs 47,48,50-53 and 65).

Claim Rejections - 35 USC § 103

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

21. **Claims 11 and 14 rejected under 35 U.S.C. 103(a) as being unpatentable over Chiles et al (US Patent Publication No 2001/0036192) in view of Araujo et al (US Patent No 6,112,245).**

22. In reference to claim 11, Chiles teaches claim 8 further comprising:

establishing a second session with the data link layer protocol between the host and a remote access concentrator without terminating the first session (paragraphs 47,48,50,51 and 65).

Chiles fails to explicitly teach where the second session is established with a second

Art Unit: 2157

concentrator. However, Araujo teaches that establishing a second session with a second concentrator is an obvious variation of establishing a second session with the same concentrator. It is well known in the art that multiple concentrators can be provided for establishing multiple sessions (Araujo, column 5 lines 40-67 and claims 1 & 8).

Therefore, it would have been obvious for one having ordinary skill in the art to modify Chiles by making the second session established with a second concentrator as per the teachings of Araujo because multiple concentrators can be provided for establishing multiple sessions.

transmitting the second message from the concentrator to the host; extracting the second set of network layer information from the second message; and applying the second set of information to the host (paragraphs 47,48,50,51 and 65).

23. In reference to claim 14, Chiles teaches claim 12 further comprising:

establishing a second PPPoE session between the host and a remote access concentrator, the second session being associated with a second account (paragraphs 47,48,50,51 and 65).

Chiles fails to explicitly teach where the second session is established with a second concentrator. However, Araujo teaches that establishing a second session with a second concentrator is an obvious variation of establishing a second session with the same concentrator. It is well known in the art that multiple concentrators can be provided for establishing multiple sessions (Araujo, column 5 lines 40-67 and claims 1 & 8).

Therefore, it would have been obvious for one having ordinary skill in the art to modify Chiles by making the second session established with a second concentrator as per the teachings of Araujo because multiple concentrators can be provided for establishing multiple sessions.

Art Unit: 2157

determining a set of network information corresponding to the second account (paragraphs 47,48,50,51 and 65); and

applying the second set of network information to the host in the PPPoE session (paragraphs 47,48,50,51 and 65).

Response to Arguments

24. Applicant's arguments filed 11/9/2004 have been fully considered but they are moot in view of the new grounds for rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramy M. Osman whose telephone number is (571) 272-4008. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3800.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RMO
August 28, 2005


ARIO ETIENNE
SUPERVISOR, PATENT EXAMINER